IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 11852 of 2005

Between:

Surapaneni Jagannadha Rao, S/o.Surapaneni Seshagiri Rao,
R/o.Chittoorpu Village, Gantasala Mandal, Krishna District.

..... **PETITIONER**

AND

1 The Asst. Commissioner,

Dept. of Endowments,

Vijayawada, Krishna District.
2 The Manager,

Sri Malleswara Swamy Temple,
Chittoorpu Village,

Gantasala Mandal, Krishna District.

.....**RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to May be pleased to issue a direction or an order or a writ more particularly one in the nature of writ of mandamus declaring Notice No.Nil/05, Dt.29-04-2005 of the 2nd Respondent is illegal, arbitrary and Article 14,19(1)(g) and 300-A of the Constitution of India apart from being violative of principles of natural justice and consequently declare the proposed auction on 7-6-2005 by the 2nd Respondent as illegal, arbitrary and Articles 14,19(1)(g) and 300-A of the Constitution of India apart from being Violative of Principles of Natural Justice.

Counsel for the Petitioner: Mr. VENKATA RANGADAS KANURI

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2 : Smt. N.Indrani (S.C. for Malleswaraswamy temple)

The Court, at the stage of admission, made the following:

ORDER:

This Writ Petition is filed to declare the notice No.Nil/05, dated 29-04-2005 of the 2nd respondent, as illegal, arbitrary and violative of principles of natural justice and consequently to declare the proposed auction to be held by the 2nd respondent, as illegal and arbitrary.

2. Learned counsel for the petitioner makes a limited submission as follows: The petitioner has been the cultivating tenant of an extent of Ac.3.97 cents in Sy.No.13/2 of Chittoorpu village, Gantasala mandal, Krishna District belonging to Sri Malleswaraswamy temple of the village. The petitioner's lease has been intimated to have been cancelled with immediate effect by a notice dated 29-04-2005, issued under Rule 5(1) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for brevity, "the Act").

3. The petitioner has been called upon to hand over possession of the lands failing which, he would be treated as an encroacher and evicted in accordance with law. Thereafter, on 12-05-2005 the land was notified for public auction for lease for a further period. While so, the petitioner submitted a representation in the month of May, 2005 to the 1st respondent stating that there is a standing crop of sugarcane in an extent of Ac.2.00 out of Ac.3.97 cents and that he has spent a considerable amount for nurturing the crop and that he be permitted to retain the possession of the land till the harvest of the current crop. On determination of his lease under the provisions of Section 82(1) of the Act, the petitioner has no legal right to remain in possession and if he continues to be in possession of the lands, he is liable to be evicted treating him as encroacher by following the process and substance of the law under Section 83 of the Act. However, the petitioner has submitted a representation for exercise of discretion by the 1st respondent.

4. In the circumstances, the Writ Petition is disposed of directing the 1st respondent to consider the petitioner's representation for continuance of possession and while considering the said representation the 1st respondent is also at liberty to negotiate for fresh lease terms permitting him to continue in possession, for such time as the 1st respondent may consider appropriate in exercise of his legal discretion keeping in view the equities claimed by the petitioner as well as the legitimate rights of the 2nd respondent-temple for an adequate return on its property. The representation shall be considered and disposed of by the 1st respondent expeditiously.

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(GODA RAGHURAM,J)

7th June, 2005.

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To

1 The Asst. Commissioner,

Dept. of Endowments,

Vijayawada, Krishna District.

2 The Manager,

Sri Malleswara Swamy Temple,

Chittoorpu Village,

Gantasala Mandal, Krishna District.

3 Two CCs to the GP for Endowments,

High Court of A.P.,Hyderabad (O.U.T).

4 Two CD copies.